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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/696,386	10/29/2003	Sean Slavin	WOND-005/01US (238062-201)	6356
7590 11/17/2005			EXAMINER	
Cooley Godward LLP			BAROT, BHARAT	
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Palo Alto, CA 94306-2155			ART UNIT PAPER NUMBER	
			2155	

DATE MAILED: 11/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/696,386	SLAVIN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Bharat N. Barot	2155	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 April 2005.
- 2a) ☐ This action is **FINAL**.      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,2,4-11,13-17,23 and 25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-11,13-17,23 and 25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION**

1. The indicated allowability of claims 1-2, 4-11, 13-17, 23, and 25 is withdrawn in view of the newly discovered reference(s) to Hawkinson et al (U.S. Patent No. 6,658,491) and Rogers et al (U.S. Patent No. 6,405,111). Rejections based on the newly cited reference(s) follow.

**Claim Rejections - 35 USC § 103(a)**

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 1-2, 4-11, 13-17, 23, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hawkinson et al (U.S. Patent No. 6,658,491) in view of Rogers et al (U.S. Patent No. 6,405,111).

4. As to claim 1, Hawkinson et al teach a method for communicating with a factory automation control system via a remote computer (see abstract; background of the invention; and figure 1), the remote computer including an object container (figure 1; and column 4 line 20-29), the method comprising: requesting, via the remote computer, factory automation control system information, the factory automation control system is configured to control an industrial process; receiving, from the factory automation control system, the factory automation control system information at the object container (figure 1; column 3 lines 5-13; and column 4 lines 9-38); and running a software application in the object container so as to enable a user at the remote computer to view the received factory automation control system information (figure 2; and column 4 line 39 to column 5 line 8).

However, Hawkinson et al do not teach that running an ActiveX control in the object container.

Rogers et al explicitly teach that running an ActiveX control in the object container so as to enable a user at the remote computer to view the received factory automation control system information (column 5 lines 1-50; column 5 line 63 to column 6 line 30; and column 14 lines 24-58).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Rogers et al as stated above with the method of Hankinson et al for communicating with a factory automation control system via a remote computer because it would have provided a comprehensive development system for Internet and web browser based system and also constructed as a stand

alone non-networking application and easily extended to share information with remote computer systems.

5. As to claim 2, Rogers et al teach that generating control instructions with the ActiveX control; and sending the control instructions to the factory automation control system, the control instructions effect changes in the industrial process (figure 5; column 10 line 15 to column 11 line 9).

6. As to claim 4, Hawkinson et al teach that the received factory automation control system information includes information selected from the group consisting of alarm information and history information (figure 2; and column 4 line 62 to column 5 line 2; and column 5 lines 26-30).

7. As to claims 5-6, Rogers et al teach that the requesting includes requesting a web page (HTML document), the web page being hosted by the factory automation control system; and the software application is a web browser configured to display the factory automation control system information via the web page (figures 2-3; and column 5 line 40 to column 6 line 30).

8. As to claims 7-9, they are also rejected for the same reasons set forth to rejecting claims 1-2 and 4-6 above, since claims 7-9 are merely an apparatus for the method of operation defined in the method claims 1-2 and 4-6.

Additionally, Hawkinson et al disclose an input/output (I/O) unit, the I/O unit is configured to communicate with a corresponding node in the industrial process and is capable of generating process data (figure 1; and column 4 lines 9-38); a data handler; an Internet server application program interface configured to receive a request from the remote computer system for the process data and send the request to the data handler, the data handler being configured to retrieve the process data from the I/O unit in response to the request; and the local software application is configured to send the process data to the remote computer system (figure 3; column 5 lines 48-64; and column 6 lines 9-27).

9. As to claims 10-11 and 13-15, they are also rejected for the same reasons set forth to rejecting claims 1-2 and 4-6 above, since claims 10-11 and 13-15 are merely a program product for the method of operation defined in the method claims 1-2 and 4-6.

10. As to claims 16-17, they are also rejected for the same reasons set forth to rejecting claims 1-2 and 4-6 above.

Additionally, Rogers et al teach that modifying an object container so that the object container includes an ActiveX control object; and the object container is a web browser (figures 2-3; and column 5 line 40 to column 6 line 30).

11. As to claims 23 and 25, they are also rejected for the same reasons set forth to rejecting claims 16-17 above.

Additionally, Rogers et al teach that the first computer including a deskbound application configured to monitor a factory automation control system at the industrial facility; and the second (remote) computer including an object container and an ActiveX component for executing an instance of the deskbound application (figure 4; and column 08 line 12 to column 10 line 14).

#### **Additional Reference**

12. The examiner as of general interest cites the following reference.
- a. Thomas et al, U.S. Patent Application Publication No. US 2003/0061335.

#### **Response to Arguments**

13. Applicant's arguments have been fully considered. The examiner has attempted to answer (response) to the remarks (arguments) in the body of the Office action.

#### **Contact Information**

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Bharat Barot** whose Telephone Number is **(571) 272-3979**. The examiner can normally be reached on Monday-Friday from 9:30 AM to 6:00 PM. Most facsimile-transmitted patent application related correspondence is required to be sent to the Central FAX Number **(571) 273-8300**.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saleh Najjar, can be reached at (571) 272-4006.

  
BHARAT BAROT  
PRIMARY EXAMINER

Patent Examiner Bharat Barot

Art Unit 2155

November 03, 2005